

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 26823 of 2005

Dated: 17.07.2006

Between:

Smt. S.Rama, W/o late S.Suresh, R/o H.No.2-63-2-92, Bhavaninagar,
Mallapur, R.R. District, Hyderabad.

.... PETITIONER

AND

The Regional Manager, APSRTC, Rangareddy Region, M.G.B.S.,
Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Order:

The petitioner, who is the wife of the deceased employee of the respondents-Corporation, filed the present writ petition seeking to direct the respondents to provide employment on compassionate grounds and appoint her either as Conductor or Shramik or to any other suitable post.

The husband of the petitioner, by name S. Suresh, while working as Driver in the respondents-Corporation, was removed from service, by order dated 24.09.2001, on the ground of unauthorized absence for 25 days. Aggrieved by the said orders, the petitioner's husband preferred an appeal before the

3rd respondent. During the pendency of the said appeal, the petitioner's husband died on 20.08.2002, and after that, the

3rd respondent considered the appeal and directed the respondents to reinstate the petitioner's husband into service, vide orders dated 26.09.2002. The case of the petitioner is that after the death of her husband, she made representations dated 28.10.2002 and 30.04.2003 requesting the respondents to provide employment on compassionate grounds and appoint her either as Conductor or Shramik or to any other suitable post, but so far the respondents neither responded to her representations nor provided any suitable job. Hence, she filed the present writ petition.

Respondents filed counter affidavit, *inter alia* stating that the petitioner's husband died on 20.08.2002 i.e., much before the appellate authority directed his reinstatement into service. The factum of the death of the petitioner's husband during the pendency of the appeal, was not brought to the notice of the respondents by the petitioner. The appellate

authority, unaware of the fact of the death of petitioner's husband, considered the appeal purely on compassionate grounds and ordered for his reinstatement into service. It is stated that according to the scheme of compassionate appointment, the petitioner has to submit an application seeking employment within a period of three years from the date of death of her husband, but the petitioner has not submitted any application seeking employment under the Bread Winner Scheme. It is further stated that the order of the appellate authority cannot be given effect to as the husband of the petitioner died prior to passing of the reinstatement order by the appellate authority, and the petitioner is not eligible for compassionate appointment under the Bread Winner Scheme as her husband was not an employee of the Corporation as on the date of his death. It is further stated that the Principal Secretary to Government, Transport, Roads and Buildings Department, by letter dated 30.07.2005, has directed that as financial condition of the APSRTC is poor, compassionate appointments in the State Level Public Enterprises is dispensed with, and in lieu of compassionate appointment, additional monetary benefit may be paid to the dependants of the employees, who die in harness, and he further directed that the earlier cases of compassionate appointments also shall not be entertained and the proposal for consideration of the cases of the dependants of the deceased employee for appointment on compassionate grounds cannot be considered, and in view of the said ban imposed by the Government, compassionate appointment cannot be provided to the petitioner.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation.

No doubt, as on the date when the petitioner's husband died, he having been removed from service, was not an employee of the respondents-Corporation, but the fact remains, he died during the pendency of the appeal. Had the respondents brought to the notice of

the appellate authority that the petitioner's husband had died, the appellate authority would have dismissed the appeal as infructuous, but the factum of the death of the petitioner's husband was not brought to the notice of the appellate authority, and in those circumstances, the appellate authority proceeded to dispose of the appeal on merits, and having considered the appeal on merits, set aside the order of termination and ordered his reinstatement into service. Had the petitioner's husband been alive, he would have got the benefit of the order of reinstatement, but inasmuch as he died during the pendency of the appeal, he cannot be reinstated. Be that as it may, it is the case of the petitioner that after the death of her husband, she made representations requesting the respondents to provide her employment under the Bread Winner Scheme. While according to the respondents, the petitioner has not submitted any such representation seeking appointment under Bread Winner Scheme, and in view of the ban imposed by the Government, compassionate appointment cannot be provided to the petitioner.

However, having regard to the facts and circumstances of the case and in view of the fact that there is a ban imposed by the Government on compassionate appointments, I deem it appropriate to dispose of the writ petition with the following directions.

The respondents are directed to consider the case of the petitioner for grant of additional monetary benefit in lieu of employment as per the circulars of the A.P.S.R.T.C. in force and extend the said benefit to the petitioner.

Accordingly, the writ petition is disposed of. No costs.

N.V. RAMANA, J.

Date: 17.07.2006
Nsr/Ksr

